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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/762,580	02/09/2001	Gerard Hotier	PET1913	5248

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MILLEN, WHITE, ZELANO & BRANIGAN, P.C.
2200 CLARENDON BLVD.
SUITE 1400
ARLINGTON, VA 22201

EXAMINER

CINTINS, IVARS C

ART UNIT PAPER NUMBER

1724

DATE MAILED: 10/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/762,580

Applicant(s)

HOTIER ET AL.

Examiner

Ivars C. Cintins

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18, 20-22 and 24-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18, 20-22 and 24-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application
- ☐ Other: _____.

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The terminal disclaimer filed March 16, 2006 has been approved, and is deemed to overcome the obviousness-type double patenting rejection contained in the previous Office action.

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-18, 20-22, 24 and 25 are again rejected under 35 U.S.C. § 112, first paragraph, as based on a disclosure which is not enabling. As pointed out in the previous Office action, it appears essential that the panels in Applicant's system contain only a single distribution chamber (i.e. C_i) in order to function in the intended manner. See the following portions of the specification: page 1, lines 6-7; page 5, lines 1-2; page 6, lines 19-20; page 13, lines 2-3; etc. Since this feature has not been recited in 1-18, 20-22, 24 and 25, these claims are not enabled by the disclosure. *In re Mayhew*, 527 F.2d 1229, 188 USPQ 356 (CCPA 1976).

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-18, 20-22 and 24-26 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. As pointed out in the previous Office action, claims 1-18, 20-22, 24 and 25 fail to recite the apparently essential limitation that all of the panels in the recited system have only a single distribution chamber; and therefore, these claims fail to particularly point out and distinctly claim the

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subject matter which Applicant regards as the invention. As pointed out in the previous Office action, claims 18, 20, 21 and 25 are also deemed to be incomplete since it appears that the other end of the bypass line must be connected to the distribution chamber (C_i). Also, the term "said at least one single distribution ... chamber [emphasis added]" (claim 26, lines 11-12) lacks antecedent basis in the claim, and is therefore indefinite, since this claim clearly recites that each of the panels comprises this chamber (see claim 26, lines 5-6).

Applicant's arguments filed July 20, 2006 have been noted and carefully considered but are not deemed to be persuasive of patentability. Applicant argues that the concept of the invention can coexist with other distribution, mixing and/or fluid extraction panels which do not contain a single distribution, mixing and/or fluid extraction chamber, so long as there is at least one panel which is in accordance with the invention. It is pointed out, however, that nowhere in the disclosure is such a combination of diverse distribution panels suggested. In fact, Applicant has clearly disclosed that each distribution-mixing-extraction panel comprises a distribution-extraction-mixing chamber C_i (see page 13, lines 2-3, of the specification). Accordingly, it appears essential that the panels in Applicant's system must each contain only a single distribution chamber in order to function in the intended manner, and the absence of such a recitation in claims 1-18, 20-22, 24 and 25 fails to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

Applicant also addresses a rejection "under 35 U.S.C. § 102(b) over Haase '292" (see the paragraph bridging pages 9 and 10 of the above noted response), and a

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rejection "under 35 U.S.C. § 102(e) over Ferschneider et al. '537" (see page 10, first full paragraph of the response). These arguments are not understood, since the previous Office action (i.e. dated December 16, 2005) contains no such rejections under 35 U.S.C. § 102(b) or (e).

Claims 1-18, 20-22 and 24-26 would be allowed if rewritten or amended to overcome the above rejections under 35 U.S.C. § 112.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to I. Cintins whose telephone number is 571-272-1155. The examiner can normally be reached on Monday through Friday from 8:30 AM to 5:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Duane Smith, can be reached at 571-272-1166.

The centralized facsimile number for the USPTO is **571-273-8300**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Ivars C. Cintins
Primary Examiner
Art Unit 1724

I. Cintins
October 1, 2006